

MINUTES  
FOR THE MEETING OF THE  
COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: May 21, 1999  
TIME: 9:00 a.m.  
PLACE: DLNR Board Room  
Kalanimoku Building

Chairperson Timothy E. Johns called the meeting of the Commission on Water Resource Management to order at 9:12 a.m.

The following were in attendance:

MEMBERS: Mr. Timothy Johns  
Mr. Richard Cox  
Mr. David Nobriga  
Mr. Herbert Richards, Jr.  
Mr. Robert Giraldo

EXCUSED: Dr. Bruce Anderson

STAFF: Mr. Edwin Sakoda  
Mr. Roy Hardy  
Mr. Eric Hirano  
Mr. Dean Nakano  
Mr. Glenn Bauer  
Mr. David Higa  
Ms. Lenore Nakama  
Mr. Charley Ice  
Mr. Dean Uyeno  
Ms. Faith Ching

COUNSEL: Ms. Linnel Nishioka

OTHERS:

Laura Mau	George Hiu	William Devick	Tom Arizumi
Barry Usagawa	Manabu Tagomori	Gordon Smith	Bill Wong
Anne Brasher	Charlie Reppun	David Craddick	Stewart Yamada

All written testimonies submitted at the meeting are filed in the Commission office and are available for review by interested parties. The items were not taken in the order posted on the agenda.

**1. Minutes of the April 16, 1999 meeting**

Commissioner Cox corrected the minutes to insert Item “7” on page 4, before the third to the last paragraph of the minutes.

MOTION: (Richards/Nobriga)  
To approve the minutes as amended.  
UNANIMOUSLY APPROVED AS AMENDED.

**2. Old Business/Announcements**

Chairman Johns announced the death of former Commission and Board Chair Keith Ahue. His services will be at Hawaiian Memorial Park on May 28, 1999.

In answer to Commissioner Richard’s question on the status of the Lower Hamakua Ditch, Acting Deputy Director Edwin Sakoda said that the Department of Agriculture (DOA) may be running out of funds to operate and maintain the ditch. Mr. Sakoda spoke to Paul Matsuo of the DOA and he said that they are trying to get authorization to charge the farmers. Other options are for the farmers to run the ditch themselves and there is a possibility that the Agricultural Development Corporation might have some funding.

**5. Maui Department of Water Supply, MODIFICATION OF PUMP INSTALLATION PERMIT, Haiku Well (Well No. 5419-01), Pump Installation: 350 gpm for municipal use TMK 2-7-33:1, Haiku Maui**

PRESENTATION OF SUBMITTAL: Mr. Charley Ice

RECOMMENDATION:

That the Commission approve the pump installation permit for a 350 gpm-capacity pump in Haiku Well (Well No. 5419-01) for municipal purposes, subject to the standard conditions in Exhibit 8.

TESTIMONY BY APPLICANT:

Mr. David Craddick stated that this well was constructed by the Division of Water and Land Development under the Department of Land and Natural Resources in 1979. Because of shallow ground water contamination in the Maui High School Well, this well was grouted deeper to withdraw water from deeper within the aquifer.

TESTIMONIES:

Mr. Tom Arizumi of the Dept. of Health, Environmental Management Division stated that on May 5, 1998 approval was granted for the use of the well to serve a public water system after receiving an engineering report that satisfactorily addressed existing and potential

sources of contamination. Approval of the report is based on comments and reviews from various agencies.

MOTION: (NOBRIGA/GIRALD)

To approve the submittal.

UNANIMOUSLY APPROVED.

**3. Preliminary Report of the Aquatic Resources Technical Advisory Committee**

PRESENTATION OF REPORT: Edwin T. Sakoda

The following is a summary of the discussion of Item 3.

Ed Sakoda stated that the December 1997 decision and order of the Waiahole Contested Case Hearing set up certain committees. The Aquatic Resources Technical Advisory Committee was one of them. They were asked to address several things listed under A and B. A was to assess the current aquatic resource monitoring activities, data, and studies and recommend additional studies necessary to determine the effects of streamflow restoration and of additional diversions on aquatic resources. B was to recommend additional or replacement release points to windward streams. Part B, replacement of release points, has been deferred. We are going to meet with some of the other committees, the hydrology committee, and the engineering/agriculture committee to get those going. We need to look at those things from other angles. This report is mainly to address the first portion covered under Item A. We have already seen the rationale for selection of the members. We have half of them here this morning. Anne Brasher of the United States Geological Survey, Water Resources Division, Bill Devick with our Division of Aquatic Resources, Mike Kido who is with the Hawaii Stream Research Center. Mike Kido has made a majority of the meetings, unpaid. We don't even give him his plane fare, but he's made the effort to attend the meetings on his own and we really appreciate that. Bob Kinsey, Zoology Department, University of Hawaii, is presently in Japan so he couldn't make it. Gordon Smith is with the Department of Health. Christine Willis is with the United States Fish and Wildlife Service and she is presently out of state also. Again, we would like to express our appreciation to the members of the committee. They are all voluntary. Staff support would be Ed Sakoda and Dean Uyeno. Section V of the report contained the viewpoint of just one of the committee members, Dr. Robert Kinzie. Dr. Kinzie's personal opinion is that several errors in the planning, management and expectation have combined to make the task assigned to the TAC difficult if not impossible to accomplish. The errors can be summarized as:

1. No baseline data collected prior to the release of additional water in Waiahole Stream.
2. Lack of flow-related biological information. Dr. Kinzie believes that there are no quantitative sets of relationships and very little understanding of the relationship between stream flow and native stream organisms.

3. Evaluation of future withdrawals from Waiahole Stream are impossible to answer because: (1) no pre-restoration data, (2) year to year variabilities, and (3) multi-use landscape that is neither pristine nor heavily urban.

Chairperson Johns stated that Part V of the report was Dr. Kinzie's personal comment. Given this general lack of concern in the past, etc., does he think that the Waiahole decision itself is not based on any kind of support? Because if he is saying that a lot of the scientific underpinning of the decision is something that cannot be determined because of the lack of concern of agencies or scientific ignorance, then does he take the next step and say that the Waiahole decision, the underpinning of the Waiahole decision, is not valid anymore?

Ed Sakoda stated, although not being able to speak for Dr. Kinzie, that he didn't think Dr. Kinzie went that far. He is just trying to point out the problems and he was kind of taken aback that the Commission was asking them to come up with this type of information with all this history. Ed Sakoda stated he did not think Dr. Kinzie made a judgment about the validity of the decision.

Commissioner Cox inquired whether Waiahole Stream is being gaged now.

Ed Sakoda responded that the Aquatic Resources Division of DLNR is currently funding studies on aquatic life in certain Windward streams.

Chairperson Johns thanked the TAC members present and asked if they had any thoughts they want to share about the conclusions of the committee as far as this report is concerned; thoughts about the decision itself and what this means. If the Commission had this report, would they have made a different kind of decision? The Commission is being asked to make additional decisions based upon the Waiahole decision in contemplation of having additional scientific information which is, realistically, at least based on this report.

Bill Devick, Division of Aquatic Resources, DLNR, stated that he thinks it should be clarified. There have been noticeable and significant improvements in the stream habitat. Some of those were identified in the report that Bill Font provided. It appears that there have been improvements that he has observed in regard to reductions in exotic species and reductions in parasitism. And we have received reports from people who simply have given qualitative comments about the reappearance of species in the stream which have previously not been observed. We have seen the reappearance of recruitment of species which previously were not observed in the stream, in particular the Lentipes concolor which is presumed to be rare on this island, although it rather common to most stream areas.

The issue that Commissioner Richards brought up of the hihiwai project, which is a community project that is underway to introduce the hihiwai to the stream is, I think, quite significant. The hihiwai is a species which has almost disappeared from Oahu. Only two other streams, one which was Sacred Falls, sustains a population. The hihiwai population is suffering from an unidentified disease, but the fact that we have an opportunity to try to get this species reestablished on Oahu now with the resumption of flow, represents a measureable advantage to the State.

Mr. Devick did not agree with some of Dr. Kinzie's comments about the state of knowledge about streams. It has advanced substantially over the past decade and we have a very clear understanding of relationships between flow and many other factors. But these are largely qualitative understandings. They are not at the present time something we could begin to quantify significantly. In terms of our level of understanding, if you look at the decision-making on a macro level, we can use the knowledge that we now have within that context. We are proceeding rather well with a project which involves modeling of streams based on GIS procedure which we expect will give us a good means of describing in general terms the effects of variations flow on habitat and biota in streams in Hawaii. The study is not focused on Waiahole Stream and it should not be presumed to be something that would ultimately provide the kind of quantitative assessment of flow reductions that the Commission would like.

Chairperson Johns inquired whether we can make macro decisions, but we cannot really make micro decisions about streams and the connections between the amount of water, habitat, biota, etc.

Bill Devick replied that the general rule would be to try to restore the natural flow and maintain natural flow to the streams as much as possible.

Gordon Smith from the Department of Health stated that in general he agrees with what Mr. Devick said in very general terms of what Dr. Kinzie wrote in terms of the present knowledge and the sense of frustration that the members of the committee felt with his idea of trying to evaluate what relatively small changes in releases would mean to the aquatic resources. He also kind of agrees with Mr. Devick that Dr. Kinzie may be overstating the lack of knowledge. Some of us have been working for some time out there at least to get some answers to the questions about instream ecology.

Anne Brasher from USGS stated that she largely agrees with almost everything that Dr. Kinzie said. But to begin with the exception, she thinks that in the past 10 years since she started working on Hawaiian streams, there has been an enormous amount of research and we are starting to have a very good understanding of how the system works. We don't know exactly the relationship between the amount of flow and how it affects the biota. As scientists, we always believe that more studies would provide more data and assist in our understanding of that relationship.

Bill Devick stated that he would like to make a couple of comments, understanding the role of the Commission and the goals the Commission has in reaching these decisions. Most states have an instream flow program with entire agencies and staff devoted to doing the hydrology and biology needed to support decisions made about stream usage and surface water uses.

Streams in Hawaii have special significance in this regard and the biota themselves have special significance both culturally and scientifically. These unique species simply don't exist anywhere else in the world. There is a higher calling for making decisions that tend to lean towards protection of the species particularly when we look at streams that have been highly modified already. And anytime that we can move to try to restore the integrity of the

system or try to bring back some of the things that have declined due to urbanization, the Commission should keep this in mind, understanding, too, that this is difficult to balance against economic development. This is something that needs to be considered.

If it is ever possible to get the scientists to say it's ok to take a precise amount of water from the stream without affecting the biota, the answer to that is no. Even where there are instream flow programs underway, in the end the decisions that are made are essentially based on the judgment of the Commission. In that context, the better the information that we can provide, the better the Commission will be able to apply it to the decision.

**4. County of Hawaii Department of Public Works, Applications for Stream Channel Alteration Permit, Kaumoali Bridge Replacement (SCAP-HA-276) (TMK 4-3-14:1), Oshiro Bridge Replacement (SCAP-HA-277) (TMK 1-8-05:30), Aliipali Bridge Replacement (SCAP-HA-278) (TMK 4-3-15:09), Honomu Bridge Replacement (SCAP-HA-279) (TMK 2-8-12:15, 2-8-13:4)**

PRESENTATION OF SUBMITTAL: Mr. Roy Hardy

RECOMMENDATION:

The staff amended the recommendation as follows:

That the Commission approve stream channel alteration permits for vehicular bridge replacements for the following streams:

Kaumoali Stream (TMK 4-3-14:1)	SCAP-HA-276
Oshiro Stream (TMK 1-8-05:30)	SCAP-HA-277
Aliipali Stream (TMK 4-3-15:09)	SCAP-HA-278
Honomu Stream (TMK 2-8-12:15, 2-8-13:4)	SCAP-HA-279

The stream channel alteration permits shall be valid for two years and subject to the standard stream channel alteration permit conditions in Exhibit 16, and the following special conditions:

- a. Prior to construction work for the Kaumoali, Aliipali, and Oshiro Bridges, the applicant shall submit written documentation from the Department of Health indicating compliance with Section 401 of the Federal Clean Water Act.
- b. The applicant shall notify the Hilo District Office of the Division of Aquatic Resources (974-6201) of the start of construction work for the Honomu Bridge replacement. This notification should be not less than one week prior to the start of construction work.

TESTIMONY BY APPLICANT:

Ms. Laura Mau of Wilson Okamoto & Associates clarified that written documentation for the Kaumoali Bridge compliance with zoning codes is forthcoming. There was a

miscommunication on the letter that was written to the Water Commission indicating that the compliance with zone codes needed further approvals.

MOTION: (Richards/Cox)

To approve the submittal as amended.

UNANIMOUSLY APPROVED AS AMENDED.

6. Other Business

The Commissioners unanimously agreed to try to change the rest of the Commission meetings back to Wednesdays.

A motion was made at 11:15 a.m. to enter into Executive Session for Items 7, 8 and 9 and adjourn the regular meeting.

MOTION: (Nobriga/Girald)

UNANIMOUSLY APPROVED.

Respectfully submitted,

FAITH F. CHING  
Secretary

APPROVED AS SUBMITTED:

LINNEL T. NISHIOKA  
Deputy Director